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## PART-I

### Notifications, Orders and Declarations by Haryana Government

STATE ELECTION COMMISSION, HARYANA

NIRVACHAN SADAN, PLOT NO. 2, SECTOR-17, PANCHKULA, HARYANA-134109

#### Order

The 15th March, 2021

**No. SEC/1ME/2021/653.**— Whereas, the State Election Commission, Haryana *vide* Notification No. SEC/1ME/2016/3184 dated 3rd December, 2020 had issued a programme for the conduct of the General Elections of 01 Municipal Council and 03 Municipal Committees including Municipal Committee, Dharuhera in the State. The elections of municipalities were conducted on 27.12.2020 and result was declared on 30.12.2020. The names of the elected candidates were notified *vide* Notification No. SEC/1ME/2021/02 dated 01.01.2021.

2. Whereas, Sh. Sandeep Bohra & Ors. filed a petition in the Commission on 06.01.2021 for the removal of respondent No. 3 *i.e.* Sh. Kanwar Singh elected as President of Municipal Committee, Dharuhera being disqualified at the time of election as incurring disqualification as prescribed under Section 13A (1) (h) as he has not passed the matriculation examination or its equivalent examination from any recognized institute/board and also disqualified in view of Section 13C by making false declaration and also for staying the further process of oath of elected President-Respondent No. 3 and also for election of petitioner No. 1 as the President of Municipal Committee, Dharuhera being the next candidate in fray entitled to be elected in case of respondent No. 3 and for staying the further process in pursuance to the above mentioned process of election. He has alleged that Sh. Kanwar Singh respondent No. 3 has submitted a forged and fabricated affidavit and declaration with the nomination paper. He has also mentioned that date of birth of Sh. Kanwar Singh has been mentioned as 15.06.1964 in the matriculation certificate issued by the Central Board of Higher Education whereas in the other record *i.e.* the record according to admission register of Government Senior Secondary School, Dharuhera his date of birth is shown as 08.10.1957 and he left the school in 10th on 31.03.1976. As per school leaving certificate, he appeared in matriculation 31.03.1976 but passed the matriculation in year 1981 with the dated of birth of 1964. His date of birth in PAN CARD is also 15.06.1964, which is totally contrary to the original record wherein the date of birth is 08.10.1957. He further mentioned that Sh. Kanwar Singh has not passed matriculation examination from any recognized board, as he has given detail that he has passed the matriculation from the Central Board of Higher Education in the year 1981, in fact the said board is fake institute, as no such institute exists in the list of member boards/councils of COBSE. He had thus prayed that till the matter is finally decided the oath of Sh. Kanwar Singh be deferred and all the action with respect to taking over the charge and financial power etc. be deferred for all intents and purposes.

3. The State Election Commission, Haryana *vide* its letter No. SEC/1ME/2021/196 dated 07.01.2021 sent the copy of the petition of Sh. Sandeep Bohra & Ors. to the Deputy Commissioner, Rewari with the request to enquire into the matter and report with his comments to the Commission at the earliest possible.

4. The Deputy Commissioner, Rewari *vide* his office Memo No. 150/LFA dated 18.01.2021 intimated the State Election Commission, Haryana that the Sub Divisional Officer (C), Kosli was appointed as Enquiry Officer in the

case, who submitted report in his office *vide* Memo No. 1885/Steno dated 15.01.2021. The Deputy Commissioner, Rewari sent the report (submitted by SDO (C), Kosli) in original to the Commission for further necessary action as per rule.

5. The Sub Divisional Officer (C), Kosli has submitted a detailed report dated 18.01.2021. On perusal of report it has been observed that the enquiry officer has also obtained report from the Secretary, Haryana School Education Board, Bhiwani, Joint Secretary, Ministry of Education Govt. of India, Secretary, Central Board of Secondary Education, Delhi, Director, Education, New Delhi, and no one has reported regarding recognition of Central Board of Higher Education, New Delhi. The enquiry officer has concluded that:-

“दोनों पक्षों को सुनने व मिसल पर आये सभी दस्तावेज/रिपोर्ट का अवलोकन करने उपरांत यह तथ्य सामने आये है कि कवर सिंह पुत्र दीनाराम निवासी गांव धारुहेड़ा के द्वारा चुनाव, अध्यक्ष पद, नगरपालिका धारुहेड़ा वर्ष 2020 के नामांकन में जो मैट्रिकुलेशन प्रमाण पत्र प्रस्तुत किया है वह दी सेंट्रल बोर्ड आफ हायर एजुकेशन द्वारा जारी किया गया है। राज्य चुनाव आयोग, हरियाणा द्वारा आयोजित चुनावों में शैक्षणिक योग्यता के लिए वैध बोर्ड अथवा संस्था वहीं माने जाते हैं जो कि स्कूल शिक्षा विभाग, हरियाणा/ हरियाणा विधालय शिक्षा बोर्ड द्वारा वैध माने जाते हैं। इस संदर्भ में निदेशालय, सूचना, जनसम्पर्क एवं भाषा, हरियाणा सरकार की वेबसाईट पर उपलब्ध राज्य चुनाव आयुक्त द्वारा जारी मार्गदर्शन व निदेशक, स्कूल शिक्षा विभाग, हरियाणा द्वारा जारी पत्र क्रमांक 9/2-2015 ACD तिथि 24.12.2015 आत्म व्याख्यात्मक है।

इस सन्दर्भ में हरियाणा विद्यालय शिक्षा बोर्ड से प्राप्त रिपोर्ट स्पष्ट है कि The Central Board of Higher Education, New Delhi द्वारा संचालित कोई भी परीक्षा हरियाणा विद्यालय शिक्षा बोर्ड, भिवानी द्वारा संचालित किसी भी परीक्षा के समकक्ष मान्यता प्राप्त नहीं है और न ही बोर्ड की समकक्षता सूचि में शामिल है। अतः कवर सिंह पुत्र दीनाराम द्वारा अध्यक्ष पद, नगरपालिका धारुहेड़ा के आम चुनाव, 2020 के नामांकन में जो मैट्रिकुलेशन प्रमाण पत्र प्रस्तुत किया है, वह वैध नहीं माना जा सकता।

6. Before initiating any action against Sh. Kanwar Singh, the State Election Commission, Haryana *vide* “Show Cause Notice” (issued *vide* No. SEC/IME/2021/525 dated 28.01.2021) provide him an opportunity to produce evidences in his support to prove that he has passed matriculation examination or its equivalent examination from recognized institution/board and date of birth mentioned in his certificate is correct, otherwise it will be presumed that he was having disqualification at time of election and action against him shall be initiated under section 13 I of the Haryana Municipal Act, 1973.

7. In reply to the “Show Cause Notice”, Sh. Kanwar Singh *vide* his representation dated 22/02/2021 emphasize upon the fact that the matriculation certificate issued in his favour by the Central Board of Higher Education, Uttam Nagar, New Delhi is valid. He also stated that an Election Petition bearing No. EP/02/2021 titled as “Rajbir Vs State of Haryana & Others” based on same ground is pending before the Hon’ble Court of Civil Judge (J.D.)-cum-Election Tribunal, Rewari. He further stated that he has challenged the amended provisions of Section 13 I of the Haryana Municipal Act, 1973 (amendment made *vide* notification dated 4.9.2019) in the Hon’ble Punjab and Haryana High court through CWP No. 3356 of 2021 and same is pending for hearing for 25.05.2021. But, he failed to produce any evidence in his support to prove that he has passed matriculation examination or its equivalent examination from recognized institution/board and date of birth mentioned in his certificate is correct.

8. The relevant sections [section 13 A (1) (h) & 13 I] of the Haryana Municipal Act, 1973 and rules [rule 21 (1) (p)] of the Haryana Municipal Election Rules, 1978 in this regard, provides as under:-

#### HARYANA MUNICIPAL ACT, 1973

**13A. Disqualifications for President and Members.**—(1) A person shall be disqualified for being chosen as and for being President or a member of a municipality. -

(h) if he has not passed matriculation examination or its equivalent examination from any recognized institution/board;

Provided that in case of a woman candidate or a candidate belonging to Scheduled Caste, the minimum qualification shall be middle pass.

Provided further that in case of a woman candidate belonging to Scheduled Caste, the minimum qualification for members excluding the President shall be 5th pass; or

**13 I. Removal of an elected President and Member having any disqualification at time of election.**- The State Election Commission may, after such enquiry, as it may deem fit and after giving an opportunity of being heard, by an order, remove the President or a member, if he was having any disqualification mentioned in section 13A or rules framed under this Act at the time of his election. The office of the President or member so disqualified shall become vacant immediately.

**HARYANA MUNICIPAL ELECTION RULE, 1978**

**21. Disqualifications for membership.-** (1) No person shall be eligible for election as a President/member of a committee, who.-

- (p) has not passed matriculation examination or its equivalent examination from any recognized institution/board:

Provided that in case of a woman candidate or a candidate belonging to Scheduled Caste, the minimum qualification shall be middle pass :

Provided further that in case of a woman candidate belonging to Scheduled Caste, the minimum qualification shall be 5th pass.”

9. The State Election Commission, Haryana, however provided him another opportunity of personally hearing for 12.03.2021 at 12.30 P.M. to keep his defense and produce evidences in his support. Sh. Kanwar Singh appeared before undersigned on 12.03.2021 and repeated his stand, but failed to produce concrete evidence to prove that the institution by which matriculation certificate is issued to him is recognized institution/board. The matriculation certificate issued by the Central Board of Higher Education, Uttam Nagar, New Delhi in favour of Sh. Kanwar Singh has thus no statutory backing, as the institution has not been recognized by any statutory Authority.

10. The allegations thus leveled against Sh. Kanwar Singh by Sh. Sandeep Bohra & Ors. and Enquiry Report dated 18.01.2021 (conducted by the Sub Divisional Officer (C), Kosli) are correct. Sh. Kanwar Singh thus deserves disqualification under Section 13A (1) (h) of the Haryana Municipal Act, 1973 and Rule 21 (1) (p) of the Haryana Municipal Election Rules, 1978 and is liable to be punished under section 13 I of the Haryana Municipal Act, 1973.

11. However, before taking decision in the matter, undersigned also gone through the citations of the Hon'ble Court and found that the Hon'ble Court has dismissed similar nature of CWPs i.e. CWP No. 15019 of 2015 and 17499 of 2015 on 22.04.2016 with the following orders:-

“Once the Board has no statutory backing, having not been recognized by any statutory Authority and is found operating on the basis of fake and forged letters of recognition, there is no hesitation in my mind to hold that the petitioner did not possess the prescribed qualifications and that the Matriculation qualification, claimed to be passed by him, has no recognition in law.

As a direct consequence of the aforesaid observations, both the writ petitions being C.W.P Nos. 15019 and 17499 of 2015 are ordered to be dismissed with no order as to costs.”

12. In view of the facts mentioned above, enquiry report, documents, judgments passed by the Hon'ble Court and the provisions of the Haryana Municipal Act, 1973 and rules made there under. I have concluded that Sh. Kanwar Singh s/o Sh. Deena Ram while contesting the election of President of Municipal Committee, Dharuhera has submitted a certificate of un-recognized board/institutes and deems to be disqualified for the post of President, Municipal Committee, Dharuhera. Hence, I Dr. Dalip Singh, State Election Commissioner, Haryana, in exercise of the powers given under Section 13 I of the Haryana Municipal Act, 1973, hereby orders to remove Sh. Kanwar Singh S/o Sh. Deena Ram from the post of President, Municipal Committee, Dharuhera with immediate effect and his office shall become vacant immediately. Name of Sh. Kanwar Singh notified as President of Municipal Committee, Dharuhera *vide* Commission's Notification No. SEC/1ME/2021/02 dated 01.01.2021 shall also be treated as de-notified.

The matter is disposed off accordingly.

DR. DALIP SINGH,  
State Election Commissioner, Haryana.